(29,254)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 704.

ALFRED STREET, SUING ON BEHALF OF HIMSELF AND ALL OTHER SEAMEN ENGAGED IN INTERSTATE AND FOREIGN COMMERCE BY SEA, ETC., APPELLANT,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST AND PACIFIC AMERICA STEAMSHIP ASSOCIATION.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DECEMBER 17, 1922

a *Names and Addresses of Attorneys.*

H. W. Hutton, Esq.,
Pacific Bldg., San Francisco, Calif.,
Attorney for Appellant.

W. F. Sullivan, Esq., and Edward J. Smith, Esq.,
112 Market St., San Francisco, Calif.,
Attorneys for Appellee, Shipowners' Association of the Pacific Coast.

A. Crawford Greene, Esq., and Edward J. McCutchen, Esq.,
Balfour Bldg., San Francisco, Calif.,
Attorneys for Appellee, Pacific American Steamship Association.

1 In the Southern Division of the District Court of the United States in and for the Northern District of California, Second Division.

In Equity.

No. 723.

ALFRED STREET, Suing on Behalf of Himself and All Other Seamen Engaged in Interstate and Foreign Commerce by Sea on Vessels Flying the Flag of and Engaged in the Merchant Service of the United States of America and Sailing to and From Ports on the Pacific Coast of the United States of America, Plaintiff,

vs.

SHIPOWNERS' ASSOCIATION OF THE PACIFIC COAST, PACIFIC AMERICAN Steamship Association, John Doe, and Richard Roe, Defendants.

(*Complaint for an Injunction to Restrain Interference with Interstate and Foreign Commerce.*)

Plaintiff complains of the defendants and for cause of action alleges.

I.

That plaintiff is a citizen of the United States of America, and a native born resident of the State of California, and is now and for many years last past he has been a seaman, engaged in interstate and foreign commerce by sea, in working on steam vessels that carried and carry passengers and cargo between different ports in the several states on the pacific coast of the United States of America, and also between such ports and foreign ports, and is de-
2 sirous of continuing so to work on such vessels.

II.

That plaintiff is associataed by and through an unincorporated Association of persons called the International Seamen's Union of America, with over ten thousand other persons, seamen, working as seamen on vessels engaged as in paragraph I hereof and hereafter stated, in the capacities of firemen, oilers, water-tenders, sailors, cooks, winch drivers, stewards and Messmen and their number being so large as aforesaid, it is impossible to join all of such persons as plaintiffs in this complaint, so plaintiff brings this action in his own behalf and in behalf of all such persons affected by the acts herein complained of it being a matter of common and general interest among all of such seamen, and it is further impracticable to unite all thereof as plaintiffs herein, and for that reason plaintiff brings this action in his own behalf and in the behalf of all of such seamen.

III.

That defendant Shipowners' Association of the Pacific Coast, is a corporation organized and existing under and by virtue of the laws of the State of California, having its office and principal place of business in the City and County of San Francisco, State of California, it being a membership corporation under the laws of said state, and its present membership is substantially every person, firm, corporation or association owning or acting as managing owner of every vessel engaged in interstate and foreign commerce documented in the different offices of the different Collectors of United States Customs on the Pacific Coast of the United States of America.

IV.

That defendant Pacific American Steamship Association, is a voluntary unincorporated association of individuals and corporations owning and operating merchant vesels flying the flag
3 of and engaged in the merchant service of the United States ofAmerica, between pacific coast ports of the said United States of America and foreign ports, and it has its office and principal place of business in the said City and County of San Francisco, State of California.

V.

That collectively the said Shipowners' Association of the Pacific Coast, and the said Pacific American Steamship Association, with their respective members own, or operate or control every vessel flying the flag of the United States of America, and engaged in the merchant service of the United States of America, in carrying passengers and cargo between the several ports of the pacific coast of the said United States of America, and such ports and foreign ports, and collectively employ all seamen so engaged.

VI.

That the true names of the defendants in the caption hereof named as John Doe and Richard Roe, are unknown to the plaintiff and he therefore prays that when such true names are ascertained this complaint may be amended by the insertion of each of their true names therein.

VII.

That on or about the 1st day of January, 1922, the defendants herein combined together to restrain the freedom of plaintiff and all other seamen on the Pacific Coast of the United States to engage in commerce between the several states on the said pacific coast of the United States of America, and the said several states and foreign nations all by sea, and to that end they established and now maintain an office at Number 84 Embarcadero, in the City and County of San Francisco, and at other places and ports on said Pacific Coast and as a condition of engaging in such trade
4 and commerce they the said defendants compel all seamen desiring to engage in such interstate and foreign trade and commerce, to register and take a number and take his turn for employment according to such number, which frequently prevents seamen of good qualifications and well know- from obtaining employment at once, when owing to their being well known among the masters and other officers of vessels engaged in the trade aforesaid and owing to their good qualifications as seamen they could and would obtain work at once, and as a condition of such employment they also compel all seamen desiring to engage in the trade and commerce aforesaid to take and carry a book upon which is printed among other things the following.

"Employment Service Bureau.

Pacific American Steamship Association, Shipowners' Assn. of the Pacific Coast, San Francisco, California.

This certificate and discharge is issued under the authority of the Pacific American Steamship Association and the Shipowners' Association of the Pacific Coast, and no person will be employed by these associations unless he is registered at their employment offices and has in his possession this Certificate and Discharge.

The lawful holder of this certificate will deliver it to the master of the vessel when he signs articles of Agreement, and the master will retain the same in his possession until the seaman is discharged or has left the employment.

To Seamen:

When you receive this book you will be given a registered number which will be placed in the back of this book. When you leave your ship you must report to the Employment Service Bureau and

get a new registered number. This registration number is given you when you apply for a job and has nothing to do with the number printed on the book. A fee will be charged for this book sufficient to cover the cost of the same."

That in addition to the foregoing each seaman applicant at said office for a position as a seaman in the trade and commerce aforesaid and receiving one of said books is required to have written therein his place of birth, his age, his date of birth, his heighth, his weight, the color of his hair, the color of his eyes, his complexion, his rating, the total years of his sea experience, his previous experience and employers, and have his photograph attached to said book.

VIII.

That the said matters are regulations of commerce among the several states and with foreign nations, in violation of the provisions of Subdivision 3, of Section 8, of Article I, of the Constitution of the United States, and have been fully provided for by the Congress of the United States in the act of Congress of June 7th, 1872, commonly known as the Shipping Commissioners Act and the various acts of The Congress amendatory and supplemental thereto, in so far as it is necessary to such commerce they should be provided for.

IX.

That the said regulations of such commerce are humiliating to all seamen, and many of the best seamen refuse to abide by them and are leaving the seafaring calling, and plaintiff refuses to engage in such commerce thereunder and is suffering loss and damage because he cannot obtain employment without obeying such rules and regulations, and defendants threaten to and will continue to enforce said rules and regulations unless restrained by this Honorable Court, and the said taking turns in employment or being employed according to number is destructive of competition in such trade and commerce among those who wish to engage in work as seamen in such trade and commerce, and said rules trench upon the exclusive right of congress of the United States to make such rules.

X.

That in addition to the foregoing professional gamblers are allowed to and do frequent the said shipping office at said 84 Embarcadero, and there solicit seamen seeking employment to engage in gambling such as percentage poker, craps and other unlawful games, to the end that no seamen with any self respect will go to said place to seek employment.

XI.

That neither plaintiff nor any other seaman hereinbefore mentioned has any plain speedy or other or adequate remedy at law for the matters herein complained of.

Wherefore plaintiff on behalf of himself and all other seamen as hereinbefore mentioned prays, that this honorable court will issue its restraining order herein *restraining order herein,* after due notice to the defendants restraining said defendants their agents, servants, employees and those acting in concert with them, from doing or performing any of the acts complained of herein pending the trial of this action and that after such trial such restraining order be made permanent by injunction, and that each of the defendants their agents, employees, servants and those acting in concert with them be enjoined and restrained from requiring any seaman from either registering in the said office or carrying or purchasing the book herein complained of as a pre-requisite to employment, or obeying any of the rules herein complained of as such pre-requisite to obtaining employment all in the interstate and foreign commerce hereinabove mentioned.

Plaintiff on behalf of himself and the other said plaintiffs further prays for such other and further relief as the court is competent to give in the premises and for their costs herein.

H. W. HUTTON,
Attorney for Plaintiff.

7 UNITED STATES OF AMERICA,
Northern District of California, ss:

Alfred Street, being first duly sworn deposes and says as follows:

I am the plaintiff above named, I have read the foregoing complaint and I know the contents thereof, and the same is true of my own knowledge except as to the matters therein stated on information or belief and as to those matters I believe it to be true.

ALFRED STREET.

Subscribed and sworn to before me this 1st day of May, 1922.

[SEAL.] JOHN L. MURPHY,
Notary Public in and for the City and County of San Francisco, State of California.

Endorsed: Filed May 1, 1922. W. B. Maling, Clerk, by J. A. Schaertzer, Deputy Clerk.

8 In the Southern Division of the United States District Court for the Northern District of California, Second Division.

In Equity.

ALFRED STREET, Suing on Behalf of Himself and All Other Seamen Engaged in Interstate and Foreign Commerce by Sea on Vessels Flying the Flag of and Engaged in the Merchant Service of the United States of America and Sailing to and from Ports on the Pacific Coast of the United States of America, Plaintiff,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST, PACIFIC American Steamship Association, John Doe, and Richard Roe, Defendants.

(*Motion to Dismiss of Pacific American S. S. Association.*)

Now comes Pacific American Steamship Association, an unincorporated association, one of the defendants in the above entitled action, and moves this honorable court to dismiss the bill of complaint herein on each and all the following grounds, to wit:

I.

That it appears on the face of said bill of complaint that this court has no jurisdiction to hear and determine this suit.

II.

That it appears on the face of said bill of complaint that this court has no jurisdiction of the subject matter of the above entitled action.

III.

9 That it appears on the face of said bill of complaint that this court has no jurisdiction of any of the parties to the above entitled action.

IV.

That the said bill of complaint does not state facts sufficient to constitute a valid cause of action at law or in equity.

V.

That the said bill of complaint does not state facts sufficient to constitute a valid cause of action at law or in equity in favor of the plaintiff Alfred Street.

VI.

That the said bill of complaint does not state facts sufficient to constitute a valid cause of action at law or in equity in favor of the purported class of persons on behalf of whom said bill of complaint is brought.

VII.

That the said bill of complaint does not state facts sufficient to constitute a valid cause of action in equity for a restraining order or for an injunction, as prayed in said bill of complaint, or for any equitable or other relief.

VIII.

That it appears on the face of said bill of complaint that said complaint is wholly without equity.

IX.

That it appears on the face of said bill of complaint that no question is therein stated of common or general interest to many persons constituting a class so numerous as to make it impracticable to bring them all before the court, or of common or general interest to the purported class of persons on behalf of whom said bill of complaint is brought.

10 Wherefore, defendant Pacific American Steamship Association prays that this Honorable Court do make its order dismissing the bill of complaint on file in the above entitled action, without leave to amend, and that said defendant recover its costs herein incurred, and for such other and further relief as may be meet in the premises.

EDW'D J. McCUTCHEN,
J. M. MANNON, JR.,
A. CRAWFORD GREENE,
McCUTCHEN, OLNEY, WILLARD, MANNON & GREENE,
Attorneys for Defendant Pacific American Steamship Association.

Endorsed: Filed May 31, 1922. W. B. Maling, Clerk, by J. A. Schaertzer, Deputy Clerk.

11 (Title of Court and Cause.)

Motion to Dismiss of Shipowners' Association of the Pacific Coast.

Now comes Shipowners' Association of the Pacific Coast, a corporation, one of the defendants in the above-entitled action, and moves the above-entitled court to dismiss said action *tne* the bill of

complaint in equity filed therein, for the following reasons and upon the following grounds:

1. That said bill of complaint does not state facts sufficient to constitute a cause of action against said defendant.

2. That said bill of complaint does not state facts sufficient to constitute a cause of action in equity against said defendant.

3. That said bill of complaint does not state facts sufficient to entitle plaintiff to any relief as against said defendant.

4. That the above-entitled court has no jurisdiction and lacks jurisdiction of said action.

5. That said court has no jurisdiction to hear, try or determine the above-entitled action.

6. That the said bill of complaint does not state facts sufficient to constitute a valid cause of action at law or in equity in favor of the purported class of persons on behalf of whom said bill of complaint is brought.

7. That it appears on the face of said bill of complaint that no question is therein stated of common or general interest to many persons constituting a class so numerous as to make it impracticable to bring them all before the court, or of common or general interest to the purported class of persons on behalf of whom said bill of complaint is brought.

12 Wherefore, defendant Shipowners' Association of the Pacific Coast prays that the above-entitled court give and make its order dismissing said action and the bill of complaint in equity filed therein and that it have and recover judgment for its costs.

Dated June 1, 1922.

W. F. SULLIVAN,
EDWARD J. SMITH,
Attorneys for Defendant Shipowners' Association of the Pacific Coast.

Endorsed: Filed June 1, 1922. Walter B. Maling, Clerk.

13 At a stated term, to-wit, the March term, A. D. 1922, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the court room, in the city and county of San Francisco, on Saturday, the 1st day of July, in the year of our Lord one thousand nine hundred and twenty-two.

Present: The Honorable Maurice T. Dooling, District Judge.

(Title of Cause.)

Order Submitting Motions to Dismiss.

Upon motion of H. W. Hutton, Esq., it is ordered that defendants' motions to dismiss stand submitted to Judge Dietrich, on the points filed.

14 (Title of Court and Cause.)

Memorandum Decision upon Defendants' Motion to Dismiss.

August 28, 1922.

DIETRICH, *District Judge:*

So far as I am advised, the suit is without precedent, and I have been unable to formulate any theory of law upon which the complaint can be sustained.

In the execution by the defendants of the scheme of employment and discharge to which the plaintiff objects, they may possibly violate some of the provisions of the Shipping Commissioners' Act (Rev. Stat. U. S., Sec. 4501, et seq.), but not necessarily. This Act neither provides nor contemplates compulsory service or employment: the Commission is without authority to require a seamen to take a job or the owner to furnish one. It is entirely optional with the parties to say whether they desire under any circumstances to engage with each other, but if they do so desire they must conform to certain requirements prescribed by law—which it is the duty of the Commission to see are not ignored or violated. That is the scope of the Act. To be sure, the Commissioner and his associates may also furnish some assistance as a sort of employment agency in a popular sense, but their service in that respect is not exclusive. Such bureaus may be maintained by either seamen or employers independently and may render material assistance without impinging upon either the letter or the spirit of the statutes.

Nor have I been able to apply to the facts of the case the anti-
trust law. Though approaching its prohibitions the case
15 as pleaded does not fall within their reach.

Besides, the plaintiff is not shown to have any standing entitling him to seek in court the general relief for which he prays.

He is not in a position to vindicate general governmental policies, nor is he "the agency to establish the public welfare."

Gassaway v. Borderland Coal Corp., 278 Fed. 56.

Nor does he connect himself with the rule or practice of which he complains. If he has a legal right to employment of which he is deprived by the alleged wrongful practice, let him present himself and comply with all lawful conditions, and if thereupon his tender of service is declined he may resort to the courts for protection or relief.

"The desire to obtain a sweeping injunction cannot be accepted as a substitute for compliance with the general rules that the complainant must present facts sufficient to show that his individual needs require the remedy for which he asks."

McCabe v. A. T. & S. F. R. R. Co.
U. S. Supreme Court 59 L. Ed. 169.

The motion to dismiss will be sustained.
Endorsed: Filed Aug. 31, 1922. Walter B. Maling, Clerk.

16 At a stated term, to-wit, the July term, A. D. 1922, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the court-room, in the city and county of San Francisco, on Thursday, the 31st day of August, in the year of our Lord one thousand nine hundred and twenty-two.

Present: The Honorable William H. Hunt, Circuit Judge.

(Title of Cause.)

(Order Vacating Dismissal of August 28th, 1922, etc., and Granting Defendants' Motion to Dismiss.)

H. W. Hutton, Esq., attorney for plaintiff and A. Crawford Greene, Esq., attorney for defendants, being present in Court; thereupon the following order was made, namely:

It being brought to the attention of the Court that in the above entitled cause sometime prior hereto there was a motion to dismiss filed by the defendants, which said motion was argued, submitted and taken under advisement by the Court, Judge Dietrich presiding, and that no decision of said motion was filed in the court on the 28th day of August, 1922, when counsel for the plaintiff filed an application to dismiss, without prejudice,

Now, inasmuch as when the plaintiff applied for a dismissal without prejudice, I was not advised of the matters heretofore recited and knew nothing thereof when application for dismissal was made, or when the order made by me as Judge was signed, the said order of August 28th made by me was improvidently made and is set aside and vacated. Further ordered that the decision made by Judge Dietrich dated August 28, 1922, be filed and that for the

reasons stated in the opinion, the defendants' motion to dismiss is granted.

17 Plaintiff's counsel objects to this order of the Court and excepts to the ruling.

WM. H. HUNT,
Judge.

Aug. 31st, 1922.

18 (Title of Court and Cause.)

Final Decree.

The motions of the defendants in the above cause to dismiss, having been heretofore and on the 31st day of August, 1922, granted, in the above cause,

It is hereby ordered adjudged and decreed, and this does order, adjudge and decree, that plaintiff's complaint herein, be, and the same is hereby dismissed, with costs to the defendants.

Dated October 14th, 1922.

W. H. HUNT,
Judge.

Endorsed: Filed and entered October 14, 1922. Walter B. Maling, Clerk, by J. A. Schaertzer, Deputy Clerk.

19 In the Southern Division of the District Court of the United States in and for the Northern District of California, Second Division.

In Equity.

ALFRED STREET, Suing on Behalf of Himself and All Other Seamen Engaged in Interstate and Foreign Commerce by Sea on Vessels Flying the Flag of and Engaged in the Merchant Service of the United States of America and Sailing to and from Ports on the Pacific Coast of the United States of America, Plaintiff,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST, PACIFIC American Steamship Association, John Doe, and Richard Roe, Defendants.

(*Petition for Appeal and Order Allowing an Appeal.*)

To said Court:

Alfred Street, the plaintiff above named, on behalf of himself and all other seamen engaged in interstate and foreign commerce by sea, on vessels flying the flag of and engaged in the merchant service of the United States of America, and sailing to and from ports on the Pacific Coast of the United States of America, feeling themselves aggrieved by the final decree made and entered in this cause on the

14th day of October, one thousand nine hundred and twenty two (1922), hereby petitions for the allowance of an appeal from and does hereby appeal from said decree to The Supreme Court of the United States, for the reason that the questions arising upon this said appeal involve both the application and the application of the Constitution of the United States, for the reasons specified in the assignment of errors which is filed herewith, and he prays that his said appeal be allowed and that citation issue as provided by law, and that a transcript of the records, proceedings and papers upon which said decree was based, and the record since said decree, duly authenticated, may be sent to The Supreme Court of the United States, sitting at Washington, in the District of Columbia.

20 And your petitioner prays that the proper order allowing [illegible] appeal be made, also fixing the amount of the security to be requi[illegible] of him to effect his said appeal.

Dated San Francisco, the 1st day of November, 1922.

H. W. HUTTON,
Solicitor for said Petitioner.

Upon the presentation of the foregoing petition of Alfred Street as aforesaid, asking for the allowance of an appeal from the final decree made and entered herein on the 14th day of October, 1922, to The Supreme Court of the United States;

It is ordered that such appeal be and the same is hereby allowed,

It is further ordered that the bond on said appeal herein be and the same is hereby fixed at the sum of Three Hundred ($300.00) Dollars, the same to act as a bond for costs and damages on appeal.

Dated this 1st day of November one thousand nine hundred and twenty two (1922).

WM. H. HUNT,
Judge.

Endorsed: Filed Nov. 1, 1922. W. B. Maling, Clerk, by J. A. Schaertzer, Deputy Clerk.

21 In the Southern Division of the District Court of the United States in and for the Northern District of California, Second Division.

In Equity.

ALFRED STREET, etc., Plaintiff,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST, PACIFIC American Shipowners Association, John Doe, and Richard Roe, Defendants.

Assignment of Errors.

Plaintiff designates and files the following assignment of errors upon which he will rely in the prosecution of his appeal in the above-

entitled cause from the final decree given and made by the above court on the 14th day of October, 1922.

That the District Court of the United States, for the Southern Division, Northern District of California, Second Division, in giving its opinion and rendering its final decree of October 14th, 1922, erred as follows:

1. In not finding and deciding that the rules prescribed by defendants to enable seamen to engage in interstate and foreign commerce were regulations of such interstate and foreign commerce, and within the exclusive power of The Congress of the United States to make under the provisions of subdivision 3 of Section 8 of Article I of the Constitution of the United States.

2. In not finding and deciding that the provisions of Section 4508 of the Revised Statutes of the United States are exclusive, as such provisions are made exclusive by the provisions of Section 4515 of said Revised Statutes.

3. In finding and deciding that the duties of a United States Shipping Commissioner as provided by the Revised Statutes of the United States, are not exclusive.

22 4. In not finding and deciding, that the provisions of Sections 4507 and 4508, of the Revised Statutes of the United States, provide the exclusive manner in which the acts therein mentioned shall be performed.

5. In finding and deciding that Sections 4507 and 4508 of the Revised Statutes of the United States, do not provide the exclusive manner in which the acts therein mentioned shall be performed.

6. In not finding and deciding that the provisions of the Revised Statutes of the United States, relating to the supplying, engagement and discharge of seamen in interstate and foreign commerce provide the exclusive manner in which each thereof shall be accomplished.

7. In finding and deciding "the plaintiff is not shown to have any standing entitling him to seek in court the general relief for which he prays," As it is alleged in the complaint and is admitted to be true that plaintiff is a seaman and desires to engage as such in interstate and foreign commerce, and defendants declare "no person will be employed by these associations unless he is registered at their employment offices and has in his possession this Certificate and discharge," to-wit, the certificate and discharge mentioned in the complaint herein.

8. In finding and deciding, "Nor does he connect himself with the rule or practice of which he complains," as the allegations of the complaint which are admitted to be true, show that he does.

9. In not finding and deciding, that plaintiff's constitutional rights were violated by defendants' rules of employment, the compliance of which by him, were a pre-requisite to his engaging in interstate and foreign commerce.

10. In not finding and deciding that plaintiff was entitled to the relief he prays for, as the court found, "they (defendants) may possibly violate some of the provisions of the Shipping Commissioners' Act (Rev. State., U. S. Sec. 4501, et seq.)."

11. In finding and deciding, in effect, that plaintiff could be compelled to do more than the law required him to, in order for him to engage in interstate and foreign commerce.

23 12. In not finding and deciding that the rules prescribed by defendants the complying of which by plaintiff were necessary to enable him to sell his labor and engage in interstate and foreign commerce, were the taking of plaintiff's labor, to-wit, his property, without due process of law.

13. In sustaining each of the motions to dismiss herein.

14. In sustaining each of the grounds given by each of the defendants in their motions to dismiss herein.

15. In deciding that it had no jurisdiction of the subject matter of plaintiff's complaint.

16. In deciding that it had no jurisdiction either to hear or determine plaintiff's suit.

17. In finding and deciding that plaintiff's bill of complaint was without equity.

18. In finding and deciding that the facts alleged in plaintiff's complaint were not sufficient to constitute a valid cause of action in equity.

19. In finding and deciding that the facts stated in plaintiff's complaint did not state facts sufficient to constitute a cause of action in equity in favor of the class of persons in whose behalf plaintiff sued in addition to himself.

20. In granting each of defendants' motions to dismiss herein.

21. In giving and making the decree dismissing plaintiff's complaint.

22. In not finding and deciding that plaintiff has a constitutional right to engage in interstate and foreign commerce only under such rules and regulations as were made by The Congress of the United States.

23. In not finding and deciding that the rules prescribed by defendants in the discharge of seamen engaged in interstate and foreign commerce were in violation of the Constitution of the United States.

24–27 24. In not finding and deciding that the rules prescribed by defendants in the supplying of seamen engaged in interstate and foreign commerce and in their engagement were in violation of the provisions of the Constitution of the United States.

25. In not finding and deciding that it was within the exclusive power of a United States Shipping Commissioner to keep an office for the furnishing of seamen to engage in interstate and foreign commerce, and in such office.

"To afford facilities for engaging seamen by keeping a register of their names and character."

"To superintend their engagement and discharge, in manner prescribed by law."

"To provide means for securing the presence on board at the proper time of men who are so engaged."

All as provided in Section 4508, of the Revised Statutes of the United States.

H. W. HUTTON,
Solicitor for Plaintiff.

Endorsed: Filed Nov. 1, 1922. W. B. Maling, Clerk, by J. A. Schaertzer, Deputy Clerk.

* * * * * * *

28 (Title of Court and Cause.)

Clerk's Certificate to Record on Appeal.

I, Walter B. Maling, Clerk of the District Courtof the United States, in and for the Northern District of California, do hereby certify the foregoing twenty-seven (27) pages, numbered from 1 to 27, inclusive, to be a full, true and correct copy of the record and proceedings in the above-entitled cause as enumerated in the præcipe for record on appeal, and that the same constitutes the record on appeal to the Supreme Court of the United States.

I further certify that the cost of the foregoing transcript of record is $10.85; that said amount was paid by H. W. Hutton, Esq., attorney for the plaintiff; and that the original Citation issued in said cause in hereto annexed.

In witness whereof, I have hereunto set my hand and affixed the seal of said District Court, this 10th day of November, A. D. 1922.

[Seal of the U. S. District Court, Northern Dist. of California.]

WALTER B. MALING,
Clerk United States District Court for the Northern District of California.

29 & 30 UNITED STATES OF AMERICA, *ss:*

The President of the United States to Shipowners Association of the Pacific Coast and Pacific American Steamship Association, Greeting:

You and each of you are hereby cited and admonished to be and appear — the Supreme Court of the United States, to be holden at

Washington, in the District of Columbia, within sixty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court, for the Southern Division of the Northern District of California, wherein Alfred Street, suing on behalf of himself and all other seamen engaged in interstate and foreign commerce by sea, on vessels flying the flag of and engaged in the merchant service of the United States of America, and sailing to and from ports on the Pacific Coast of the United States of America, is appellant, and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable William Howard Taft, Chief Justice of the Supreme Court of the United States, this 2nd day of November, A. D. 1922.

WM. H. HUNT,
United States Circuit Judge.

31 [Endorsed:] No. 723. In the Southern Division of the District Court of the United States, Northern District of California, Second Division. In Equity. Alfred Street, etc., Plaintiff, vs. Shipowners Association of the Pacific Coast et al., Defendants. Citation on Appeal. Filed Nov. 2, 1922. W. B. Maling, Clerk, by J. A. Schaertzer, Deputy Clerk. Filed Nov. 2, 1922. W. B. Maling, Clerk, by —— ——, Deputy Clerk.

Copy of the within Citation received this 2nd day of November, A. D. 1922.

W. F. SULLIVAN,
EDWARD J. SMITH,
Attorneys for Shipowners Association of the Pacific Coast;
A. CRAWFORD GREENE,
EDWD. J. McCUTCHEN,
Attorneys for Pacific American Steamship Association, Defendants and Appellees.

32 In the Supreme Court of the United States.

ALFRED STREET, etc., Plaintiff and Appellant,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST et al., Defendants and Appellees.

Designation of Parts of Record to be Printed.

To the Appellees in the above appeal and their attorneys:

Appellant notifies you, that he intends to rely upon each of his assignment- of errors in the above cause, and considers the following

parts of the record necessary to be printed for the consideration of the same, to-wit:

1. The complaint.
2. Each of the motions to dismiss.
3. The minute order submitting the motions to dismiss.
4. The opinion of the court granting the motions to dismiss.
5. The minute order granting the motions to dismiss.
6. The final decree.
7. The assignment of errors.
8. The petition for the allowance of an appeal, and the order allowing the appeal.

Yours, etc.,

H. W. HUTTON,
Attorney for Appellant.

Receipt of a copy of the foregoing admitted this 14th day of November, 1922.

W. F. SULLIVAN,
EDWARD J. SMITH,
Attorneys for Shipowners Association of the Pacific Coast.
McCUTCHEN, OLNEY, WILLARD, MANNON & GREENE,
A. CRAWFORD GREENE,
Attorney- for Pacific American Steamship Association.

33 [Endorsed:] 704—29,254. No. —. In the Supreme Court of the United States. Alfred Street, etc., Plaintiff and Appellant, vs. Shipowners Association of the Pacific Coast et al., Appellees. Designation of parts of record to be printed.

34 [Endorsed:] File No. 29,254. Supreme Court U. S., October Term, 1922. Term No. 704. Alfred Street, etc., Appellant, vs. Shipowners' Association of the Pacific Coast et al. Designation by appellant of parts of record to be printed. Filed November 20, 1922.

Endorsed on cover: File No. 29,254. N. California D. C. U. S. Term No. 704. Alfred Street, suing on behalf of himself and all other seamen engaged in interstate and foreign commerce by sea, etc., appellant, vs. Shipowners Association of the Pacific Coast and Pacific America Steamship Association. Filed November 20th, 1922. File No. 29,254.

No. 156

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WM. R. STANSE
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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1922

ALFRED STREET, suing in behalf of himself and all other seamen engaged in interstate and foreign commerce by sea on vessels flying the flag of and engaged in the merchant service of the United States of America and sailing to and from ports on the Pacific Coast of the United States of America,

Appellant,

vs.

SHIPOWNERS' ASSOCIATION OF THE PACIFIC COAST, PACIFIC AMERICAN STEAMSHIP ASSOCIATION, JOHN DOE and RICHARD ROE,

Appellees.

Reply of Appellees Shipowners' Association of the Pacific Coast and Pacific American Steamship Association, on Appellant's Motion to Advance Cause.

W. F. SULLIVAN,
112 Market Street, San Francisco,
Counsel for Appellee, Shipowners' Association of the Pacific Coast.

EDWARD J. MCCUTCHEN,
J. M. MANNON, JR.,
A. CRAWFORD GREENE,
Balfour Building, San Francisco,
Counsel for Appellee, Pacific American Steamship Association.

Parker Printing Company, San Francisco

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1922

No. 704

ALFRED STREET, suing in behalf of himself and all other seamen engaged in interstate and foreign commerce by sea on vessels flying the flag of and engaged in the merchant service of the United States of America and sailing to and from ports on the Pacific Coast of the United States of America,

Appellant,

vs.

SHIPOWNERS' ASSOCIATION OF THE PACIFIC COAST, PACIFIC AMERICAN STEAMSHIP ASSOCIATION, JOHN DOE and RICHARD ROE,

Appellees.

Reply of Appellees Shipowners' Association of the Pacific Coast and Pacific American Steamship Association, on Appellant's Motion to Advance Cause.

To the Honorable William Howard Taft, Chief Justice of the Supreme Court of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

Shipowners' Association of the Pacific Coast and Pacific American Steamship Association, appellees herein, respectfully file this, their reply to the motion of appellant to advance the cause as above entitled on the calendar of the court.

Since this appeal involves a cause between private parties which has not heretofore been before the Supreme Court of the United States, there is obviously a serious question as to whether it is one which may be advanced under Rule 26. Appellees, however, do not oppose any advancement which will afford to them a fair opportunity to present their case, but respectfully request that no date in advance of June 1, 1923, be selected.

Respectfully submitted,

W. F. SULLIVAN,
Counsel for Appellee, Shipowners' Association of the Pacific Coast.

EDWARD J. MCCUTCHEN,
J. M. MANNON, JR.,
A. CRAWFORD GREENE,
Counsel for Appellee, Pacific American Steamship Association.

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1922.

No. 704

ALFRED STREET, suing in behalf of himself and all other seamen engaged in interstate and foreign commerce by sea on vessels flying the flag of and engaged in the merchant service of the United States of America and sailing to and from ports on the Pacific Coast of the United States of America,

Appellant,

vs.

SHIPOWNERS' ASSOCIATION OF THE PACIFIC COAST, PACIFIC AMERICAN STEAMSHIP ASSOCIATION, JOHN DOE and RICHARD ROE,

Appellees.

MOTION TO ADVANCE CAUSE.

To the Honorable William Howard Taft, Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

Appellant Alfred Street, suing on behalf of himself and about 10,000 other seamen engaged as seamen in interstate and foreign commerce by sea on vessels flying the flag of and engaged in the merchant service of the United States of America and sailing to and from ports on the Pacific Coast of the United States of America, respectfully petitions for an order of the Honorable the Supreme Court of the United States advancing the above-entitled cause on the calendar, and shows the following reasons therefor:

There are about 10,000, in fact, all of the seamen engaged in interstate and foreign commerce by sea sailing to and from the Pacific ports of the United States, interested in the event of this appeal, and defendants Shipowners' Association of the Pacific Coast and Pacific American Steamship Association, controlling all of the vessels engaged in interstate and foreign commerce by sea sailing to and from ports on the said Pacific Coast of the United States have combined together and compel all seamen seeking employment and employed on such vessels to register their names at an office conducted by such defendants, take their turn in obtaining employment, and carry a continuous discharge book, upon which there is required to be entered the place of birth, the age, the date of birth,

the height, the weight, the color of the hair, the color of the eyes, the complexion, the rating, the total years of sea experience, the previous experience and employers of each seaman, and also have the photograph of each seaman attached thereto, and there is printed upon such book, "and no person will be employed by these associations unless he is registered at their employment office and has in his possession this Certificate and Discharge".

That such discharge books can be used for blacklisting purposes, and such conditions so imposed in order to obtain employment, are humiliating to seamen, regulations of interstate and foreign commerce which only the Congress of the United States has power to make, and Congress has legislated upon the same subject matters in so far as it thought it necessary to legislate upon them, in providing, in Section 4507 of the Revised Statutes of the United States that the Secretary of the Treasury, now the Secretary of Commerce shall provide an office where seamen shall be engaged, and in Section 4508 of the Revised Statutes that the registration of a seaman's name shall be by the United States Shipping Commissioner, and in Section 4515 of the Revised Statutes of the United States that the supplying of seamen as is done by said defendants herein is unlawful, and in Section 4551 of said Revised Statutes for a form of discharge to be issued by said Shipping Commissioner, all of which sections provide the exclusive method of doing the things said defendants are undertaking to do in violation of said sections.

That the said acts of said defendants are calculated to lower the standard of efficiency of seamen and are prejudicial to a building up of an efficient United States Merchant Marine, and restrain appellant and such other seamen from freely engaging in interstate and foreign commerce, all of which appellant can abundantly show on argument of his cause and the matters in issue herein are of great public interest.

That in the ordinary course of the court's calendar this cause is not likely to be reached earlier than 1925, and believing that the public interest requires that it should be more speedily heard;

He respectfully asks that this case be advanced to some day convenient to the court, other than the day on which it would be heard in the regular call of the calendar.

And appellant will ever pray.

Dated, San Francisco,
February 1, 1923.

H. W. HUTTON,
Attorney for Appellant.

The appellees in the above-entitled cause and their attorneys will please take notice:

That the within motion to advance cause will be presented to the Supreme Court of the United States, at the opening of court, on Monday, the 5th

day of March, A. D. 1923, at the court-room of said court, Washington, D. C.

Dated, San Francisco,
February 1, 1923.

Yours, etc.,

H. W. HUTTON,
Attorney for Appellant.